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September 23, 2009

Ms. Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

**Re: Notice of Ex Parte Meeting  
WC Docket Nos. 04-36, IP-Enabled services; 01-92, Developing a Unified Intercarrier  
Compensation Regime**

Dear Ms. Dortch:

On September 22, 2009 TDS Telecom companies in New York, New England and Georgia, represented by Mike Reed of TDS; Bob Puckett, President, New York State Telephone Association; Roger Nishi of Waitsfield and Champlain Valley Telecom, representing the Telephone Association of Vermont; Bill Stafford of Granite State Telephone Company; Joe Douglas and the undersigned, both of NECA, met with Carol Simpson of Commissioner Clyburn's office to discuss access arbitrage by interconnected VoIP providers and other carriers.

In particular, the companies discussed the rapid growth of access minutes terminating on their company networks by interconnected VoIP providers and other carriers which refuse to pay. This growth is part of a national trend to send voice traffic to ILEC networks without compensation for use of those networks. The companies discussed how this trend will continue as VoIP inevitably enjoys broader adoption.

Discussion also centered on how courts in various States have been left in limbo pending decisions from the Federal Communications Commission. Finally, company representatives discussed the growing threat posed by year-over-year increases in billed but disputed access minutes. The erosion of this critical revenue stream directly diminishes their ability to provide next generation services to rural consumers. These messages are summarized in the attached material.

Sincerely,

A handwritten signature in black ink, appearing to read "Colin Sandy", with a stylized flourish at the end.

Colin Sandy

cc: Julius Genachowski, Chairman  
Michael Copps, Commissioner  
Robert McDowell, Commissioner  
Mignon Clyburn, Commissioner  
Meredith Attwell Baker, Commissioner  
Sharon Gillett, Chief, WCB  
Marcus Maher, Associate Bureau Chief, WCB  
Victoria Goldberg, WCB  
Jennifer Prime, WCB



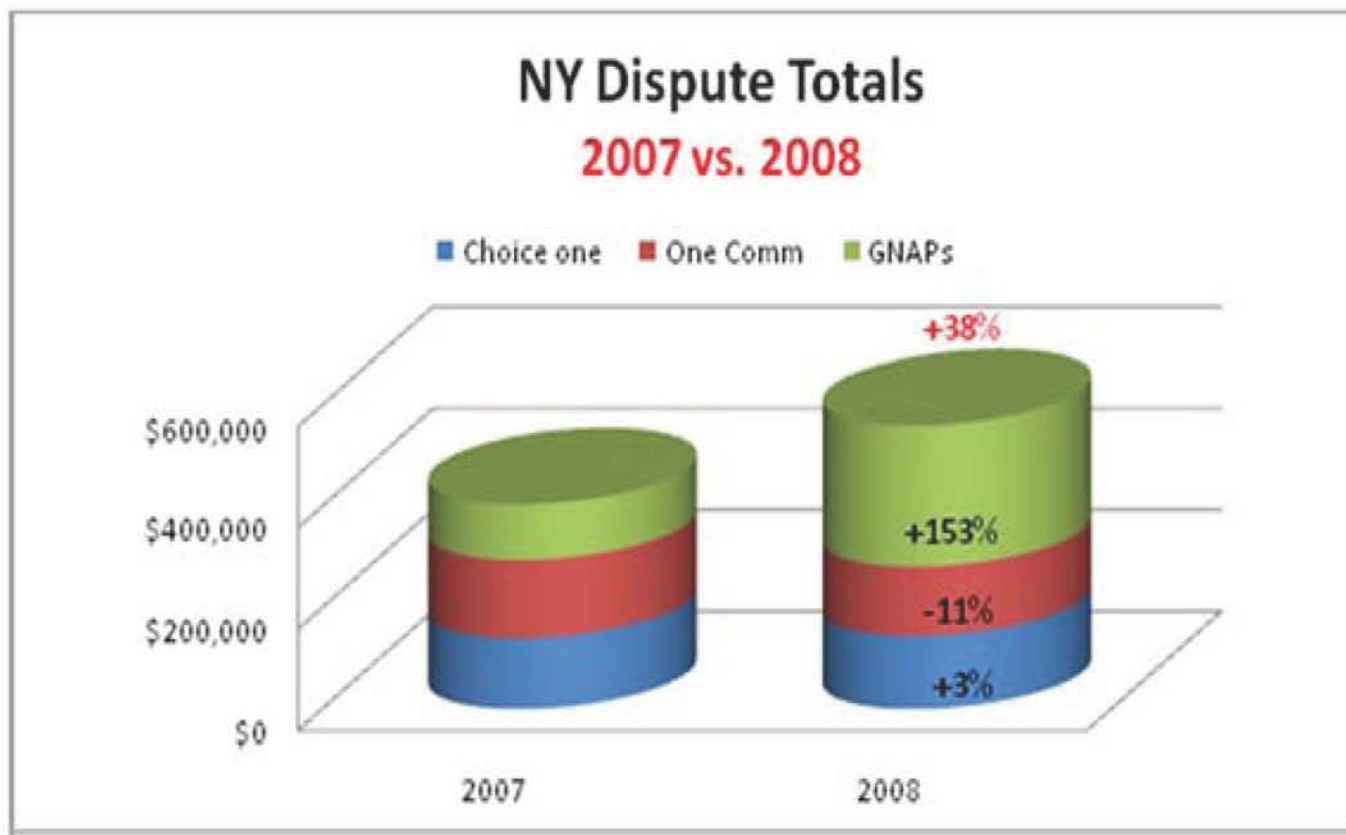
***Access Arbitrage  
The Case in New York, New  
England, and Georgia***

WC Docket Nos. 04-36, 01-92  
September 22, 2009

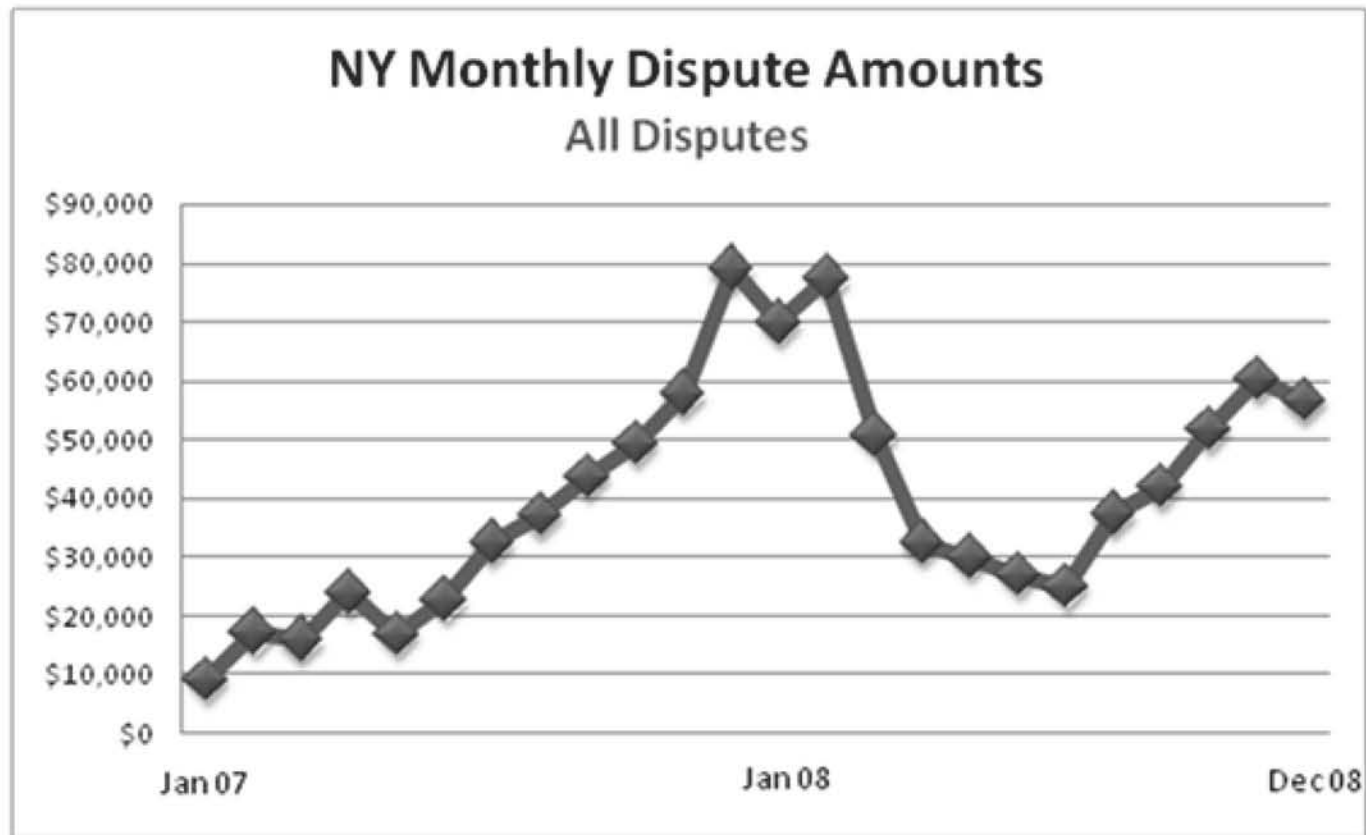
# *Rural Broadband Deployment*

- Broadband is the medium through which today's most innovative applications reach consumers in even the most remote areas.
- Rural telephone companies have a proven track record of providing broadband services to their customers.
- Continued access arbitrage threatens the very network needed to support current applications and make future innovation possible.
- Commission action is needed now to provide greater regulatory certainty and incentive for investment needed to continue bringing broadband to rural consumers.

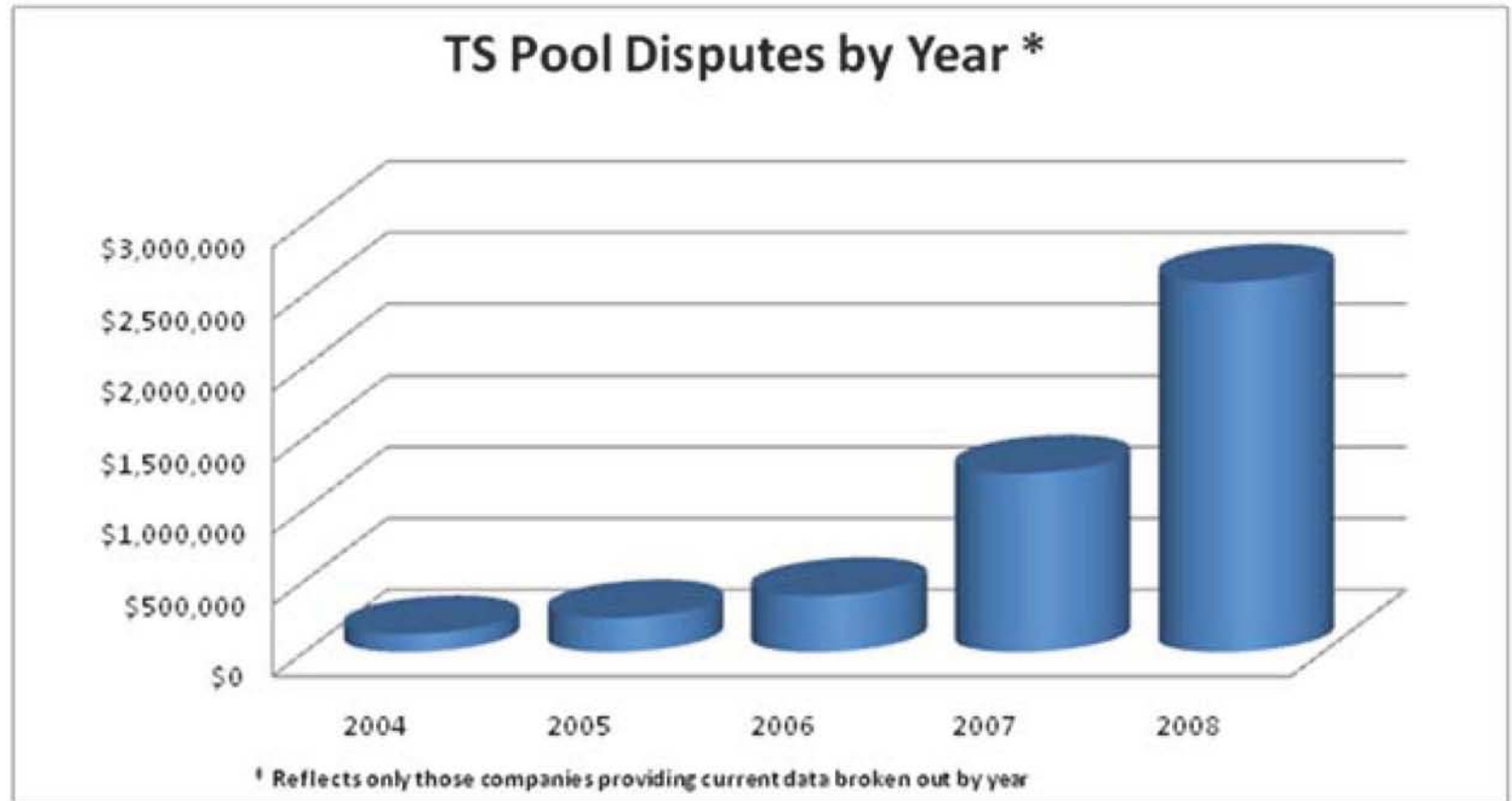
# *Carriers Are Refusing to Pay Access Charges for Terminating Voice Calls on the PSTN – and the Problem is Growing*



# *The Traffic is Often Hard to Detect As Carriers Can Redirect Traffic Quickly*



# *New York Problem is Part of a Nationwide Trend*





# *Georgia Companies Data*

**3 Georgia TDS Companies - Dispute Totals**  
**Jan 2004 - Mar 2009**  
**\$635,308**

■ GNAPs      ■ CommPartners      ■ Others





## *The FCC Is Treating VoIP Like It Is POTS*

Feb 2004	Pulver.com	Computer-to-computer VoIP is enhanced
April 2004	AT&T IP-in-the-Middle	Calls originating & terminating on PSTN are telecom services
Nov 2004	Vonage	Nomadic VoIP preempted to interstate
June 2005	E911	Applied to interconnected VoIP
Sept 2005	CALEA	Applied to interconnected VoIP
June 2006	USF Contributions	Applied to interconnected VoIP
March 2007	CPNI	Applied to interconnected VoIP
March 2007	Time Warner	Confirmed interconnection rights for wholesale carriers who provide service to VoIP providers
Aug 2007	Fed Reg fees	Applied to interconnected VoIP
Nov 2007	LNP	Extended to interconnected VoIP
May 2009	Discontinuance Notification	Service discontinuance notice must be sent to customers

# *Vermont and New Hampshire Cases*

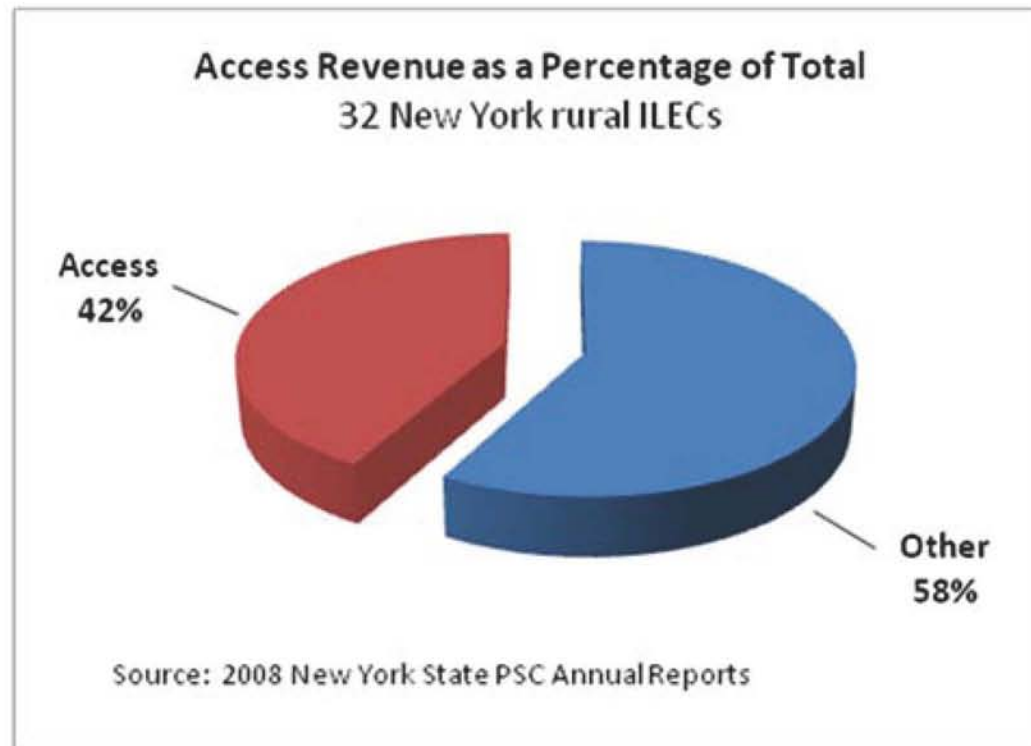
- February 2008, a number of New Hampshire TDS companies filed a petition with the PUC to block GNAPS traffic from terminating on local networks as GNAPs has refused to pay terminating access charge bills.
- September 2008, the PUC ordered GNAPs to produce information pursuant to discovery, then ordered GNAPs to produce more information in October.
- Currently an order is pending on TDS motion for a performance bond.
- March 2009, TDS companies filed a complaint against GNAPs with the Vermont PSC
- July 2009, Vermont PUC ordered GNAPs to produce information pursuant to discovery.

# *The FCC's Failure to Confirm Access Charges Apply is Tying Up Courts and State PUCs*

- Numerous cases “on hold” in Missouri, Connecticut, Washington, and Montana
- But some states are actively pursuing egregious “VOIP” nonpayers
  - e.g., California, Georgia, North Carolina, Connecticut, Illinois, and Texas.
- The Commission should encourage all states and courts to enforce existing interconnection agreements and tariffs, using currently effective rules.

## *Today's Networks Need a Stable Revenue Base to Deploy Tomorrow's Services*

- Access represents 42% of operating revenues for New York Rural ILECs.
- Without stable revenue, broadband deployment is not possible.



# *Next Steps*

- FCC must:
  - Confirm existing intercarrier compensation rules remain in effect pending conclusion of IP-Enabled Services and ICC reform proceedings.
  - Allow carriers to exercise all tariff remedies.
- Doing so will:
  - Help promote stability in the marketplace
  - Enable retention and creation of good jobs in rural communities
  - Incent investment in rural areas
  - Enable continued rural telephone company deployment of advanced services to customers.

